

November 8, 2007



Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Oral *Ex Parte* Presentation in MB Docket No. 05-
255
MB Docket No. 07-42

Dear Ms. Dortch:

On November 7, 2007, Andrew Jay Schwartzman, Harold Feld, and Parul Desai of the Media Access Project, Cory Wright of the Georgetown Institute for Public Representation, and Marvin Amouri of Free Press, Katherine Grincewich of United States Conference of Catholic Bishops, and Gene Kimmelman of Consumers Union, met with Commissioner Adelstein and his media advisor Rudy Brioche with regard to the above captioned matters.

With regard to MB Docket No. 05-255, the meeting participants stated that, for reasons explained in previous filings, the Section 612(g) "70/70" test has been met, and the Commission should so find in its pending MVPD Competition Report item. The Commission should move expeditiously on this matter, as a finding that Section 612(g) 70/70 test is met will provide the Commission with additional authority in other cable proceedings.

With regard to MB Docket No. 07-42, meeting participants provided copies of a letter from Comcast addressed to Philadelphia area leased area programmers, announcing that they would be migrated to digital tier on less than 30 days notice. The decision was unilateral, not subject to discussion, and leased access programmers were not informed in the letter to what channel they would be migrated – making it impossible to begin notifying viewers until Comcast provided further details to the individual programmers.

The meeting participants also discussed rate reform for leased access and urged the Commission to adopt a flat rate consistent with the previous filings of NAMAC, *et*

al. With regard to the argument raised by cable operators that a rate that encourages greater use of leased access capacity will force cable operators to drop diverse programming, meeting participants expressed skepticism. Further, even if true, Congress already made a determination as to the capacity cable operators should set aside for leased access. It would be inappropriate for the FCC to set a rate with the deliberate goal of ensuring that actual demand falls well below the capacity Congress allocated.

In accordance with Section 1.1206(b) of the Commission's Rules, 47 CFR §1.1206, this letter is being filed with your office.

Respectfully submitted,

/s/

Harold Feld
Senior Vice President

cc: Commissioner Adelstein
Rudy Brioche